

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-1508V
(not to be published)

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SHAMIR DAVIS,	*	Special Master Katherine E. Oler
	*	
Petitioner,	*	
	*	
	*	Filed: May 22, 2023
v.	*	
	*	
SECRETARY OF HEALTH AND	*	Involuntary Dismissal; Failure to Comply
HUMAN SERVICES,	*	with Court Orders; Failure to Prosecute;
	*	Rule 21(b).
Respondent.	*	
	*	
*****	*	

DECISION DISMISSING CASE FOR FAILURE TO COMPLY WITH COURT ORDERS
AND FAILURE TO PROSECUTE¹

I. Procedural History

On October 11, 2022, Shamir Davis (“Petitioner”) filed a petition for compensation in the National Vaccine Injury Compensation Program. Pet., ECF No. 1. This case was reassigned to my docket on October 18, 2022. ECF No. 8.

On October 26, 2022, I held an initial status conference with the parties. *See* Minute Entry dated 10/26/2022. During this status conference, I discussed Petitioner’s Motion for Leave to Proceed in Forma Pauperis (ECF No. 6) and granted her motion. *See* Initial Order at 3, ECF No. 11. During this status conference, I also recommended Petitioner find legal representation, as it would not be a financial burden and would greatly assist her in the litigation of her case. *See id.* at 1. I granted Petitioner until November 28, 2022 to provide me with an update on her efforts to secure legal representation. *Id.* at 3.

¹ Because this Decision contains a reasoned explanation for the action in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

On November 2, 2022, Petitioner contacted my law clerk because she had been unable to access the Court's list of vaccine attorneys. *See* Informal Communication Remark dated 11/2/2022. My law clerk emailed Petitioner the weblink to access the list of vaccine attorneys. *See id.*

On November 19, 2022, Petitioner emailed my law clerk to inform me that she had retained Ms. Sylvia Chin-Caplin as her counsel. *See* Informal Communication Remark dated 12/7/2022. On December 7, 2022, I issued an order giving Petitioner 30 days, or until January 6, 2023, to file a Motion to Substitute Counsel or a status report updating me on her search for legal representation. ECF No. 13. That deadline passed with no filings from Petitioner.

On January 10, 2023, my law clerk reached out to Petitioner via email regarding her missed deadline. *See* Informal Communication Remark dated 2/3/2023. My chambers did not receive a response. On February 3, 2023, I issued another order directing Petitioner to file a status report either updating me on her search for legal representation or indicating whether she would like to continue prosecution of her case, by March 6, 2023. ECF No. 14. Petitioner did not file a status report as directed.

On March 13, 2023, I issued another order directing Petitioner to file a status report to update me on her search for legal representation or indicate whether she would like to continue with the prosecution of her case. ECF No. 15. I also informed Petitioner that if she failed to file a status report, an order to show cause as to why this case should not be dismissed for failure to follow court orders and failure to prosecute would be issued. *See id.* I gave Petitioner a deadline of April 12, 2023 to file this status report. *Id.* Petitioner did not file a status report as directed.

On April 13, 2023, I issued an Order to Show Cause, where I ordered Petitioner to file a status report indicating whether she would like to continue prosecution of her claim by May 15, 2023. ECF No. 16. I informed Petitioner that her failure to file a status report would be interpreted as a failure to prosecute this claim and her petition would be dismissed. May 15, 2023 passed with no filings from Petitioner. Petitioner has not submitted any filings or communicated with my chambers since November 2022.

II. Conclusion

Vaccine Rule 21(b)(1) provides that a “special master or the court may dismiss a petition or any claim therein for failure of the petitioner to prosecute or comply with these rules or any order of the special master or the court.” It is Petitioner’s obligation to follow court orders. Failure to follow court orders, as well as failure to file status reports or other required documents, can result in dismissal of Petitioner’s claim. *Tsekouras v. Sec’y of Health & Hum. Servs.*, 26 Cl. Ct. 439 (1992), 991 F.2d 810 (Fed. Cir. 1993) *aff’d per curiam without opin.*; *Sapharas v. Sec’y of Health & Hum. Servs.*, 35 Fed. Cl. 503 (1996); Vaccine Rule 21(b). Petitioner has failed to file any court-ordered status reports and has not communicated with chambers since November 2022.

ACCORDINGLY, IT IS ORDERED THAT,

The petition is hereby **DISMISSED** for failure to follow court orders and failure to prosecute. The Clerk shall enter judgment accordingly. ²

A copy of this Decision shall be sent to Petitioner by email at dshamir@yahoo.com and via U.S. Mail at the following address:

Shamir Davis
6909 Fullerton Avenue
Cleveland, OH 44105

Any questions regarding this Decision may be directed to my law clerk, Sydney Lee, by telephone at 202-357-6347, or by email at Sydney_Lee@cfc.uscourts.gov.

IT IS SO ORDERED.

s/ Katherine E. Oler
Katherine E. Oler
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.